Supreme Court, U.S.
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No. 00-

IN THE
Supreme Court of the United States

PATRICK ANTHONY THRIFT,

Petitioner,

v.

PAMELA KELLY THRIFT and MISSISSIPPI DEPARTMENT OF HUMAN SERVICES,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF MISSISSIPPI

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Mississippi Supreme Court's decision, interpreting the Mississippi Uniform Reciprocal Enforcement of Support Act and its successor statute, refusing to recognize a child support order/modification entered by the state of North Carolina violates the Full Faith and Credit Clause of the United States Constitution and/or 28 U.S.C. § 1738B, and the due process clause of the Fourteenth Amendment to the United States Constitution.

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Petitioner respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of Mississippi.

OPINIONS BELOW

The opinion of the Supreme Court of Mississippi is printed as appendix "A" to this Petition.

STATEMENT OF JURISDICTION

The judgment of the Supreme Court of Mississippi was entered on May 18, 2000. (App. A). The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Full Faith and Credit Clause of the United States Constitution

Fourteenth Amendment to the United States Constitution

28 U.S.C. § 1738B

Miss. Code. Ann. § 93-11-1, *et seq.*

Miss. Code Ann. § 93-25-1, *et seq.*

STATEMENT OF THE CASE

This case presents a modern twist on a traditional clash between two sovereign states of the Union. In what is becoming a more and more common occurrence, two states are legitimately attempting to adjudicate the child support obligations of its own residents. As there has been a large and exponentially growing number of child support cases involving parents who live in different states of our Union, how each state handles such matters has become increasingly important. This area of law has become a focal point for concerns of federalism.

Indeed, such concerns over comity, federalism, and conflict of law issues have been so important Congress saw fit in 1994 to enact the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B. However, such measures have not prevented the current conflict between the states of Mississippi and North Carolina. Here, the state of North Carolina, with proper jurisdiction and consent of *all* the parties, modified a child support order originally issued in Mississippi. Contrary to the Full Faith and Credit Clause of the United States Constitution and the provisions of 28 U.S.C. § 1738B, Mississippi has refused to recognize it.

A. Course of Proceedings and Disposition Below

Pamela Kelly Thrift ("Pamela") and Patrick Anthony Thrift ("Patrick") were divorced on or about January 23, 1989, by Decree of Divorce entered in the Chancery Court of Lafayette County, Mississippi. This Decree contained an obligation of child support in the amount of $200 a month. (App. A). Following the divorce, Patrick moved to Wake County, North Carolina. On four separate occasions — June

18, 1992; December 3, 1992; September 3, 1993; and September 24, 1993 — the District Court Division in Wake County, North Carolina entered Orders modifying child support and establishing the arrearage on the respective dates, ultimately reducing the support obligation to $100 a month. (App. A). A dispute arose as to the amount of the arrearage when the State of Mississippi Department of Human Services increased this arrearage by $6,000 on or about January 8, 1998. (App. A).

On or about March 12, 1998, Patrick filed a Motion for Modification in the Mississippi courts which included, among other things, a request that the child support payments be modified and that the Mississippi Court determine the child support arrearage consistent with the arrearage established by the State of North Carolina for the amounts paid pursuant to the Court Orders from North Carolina. (App. A). The trial court judge (in Mississippi, referred to as the Chancellor) heard testimony regarding these matters and entered his Memorandum Opinion and Order on July 23, 1998. The Chancellor found that the Orders in North Carolina which purportedly reduced or modified Mr. Thrift's obligation to pay child support were effective only within North Carolina and did not alter the original Mississippi Decree. (App. A). The Chancellor ordered that the child support continued to accrue at the rate of $200 per month, and that after giving Mr. Thrift credit for all payments. (App. A).

On appeal to the Supreme Court of Mississippi, the decision of the trial court was affirmed. (App. A). The Petitioner makes this timely petition for writ of certiorari to review this decision.

B. Statement of Facts

The Supreme Court of Mississippi affirmed the Chancellor's findings that the North Carolina Orders were ineffective to alter the Mississippi Decree of Divorce (which contained the child support orders). (App. A). Returning to the original Decree of Divorce, without recognizing any modification, court then found the child support had continued to accrue at the rate of $200 per month. (App. A).

Relevant evidence before the court regarding the modifications and the arrearage can be summarized as follows:

— On or about August 22, 1990, in Mississippi, Pamela filed her Uniform Support Petition, and General Testimony under the Mississippi Uniform Reciprocal Enforcement of Support Act (URESA). On or about August 27, 1990, the Chancellor signed and filed the Certificate and Order. Pamela's Petition requested an Order for registration and enforcement of the current support order, an establishment of the arrearage and current child support. (App. A). The Certificate and Order was executed by the Chancellor and ordered that three copies of the Certificate, the Petition, testimony and required copies of the state's reciprocal support statute be transmitted to North Carolina Division of Social Services Child Support Enforcement. (App. A).

— On or about June 18, 1992, the General Court of Justice, District Court Division of Wake County, North Carolina entered its Order allowing the registration of the Mississippi Order for child support. The style of the case was "Pamela Thrift, Plaintiff v. Patrick Thrift, Defendant". (App. B). The Order further established the arrearage as of March 31, 1992, at $7,240, and found good cause shown to decrease the child support obligation

the Court ordered Patrick to pay child support in the amount of $150 per month — $21 of each said payment to be credited toward the arrearage and $129 per month toward current support. (App. B).

— On or about December 3, 1992, following a hearing in the General Court of Justice District Court Division of Wake County, North Carolina, the Judge found good cause to increase child support and entered its Order that Patrick pay $200 per month — $52 of each payment to be credited toward the arrearage and $148 for current support, further establishing an arrearage of $7,093 as of October 31, 1992. (App. C).

— On or about September 3, 1993, following a hearing, the District Court Division of Wake County, North Carolina entered its Order that Patrick pay $200 per month — $52 of each payment being credited toward the arrearage and $148 per month toward current support. The Order further established arrearage at $7,393 as of August 13, 1993. (App. D).

— On or about September 10, 1993, a hearing was held on a Motion by Patrick to reduce child support. The Judge found a substantial change in circumstances based on a notarized statement from Pamela Thrift. (App. F). Patrick was found to be a student at North Carolina State University. Pamela Thrift was represented at the hearing by an attorney. The Court entered its Order establishing child support in the amount of $140 per month — $40 to be paid toward the arrearage and $100 per month current child support. (App. E).

— Written consent given by Pamela Thrift to the North Carolina court agreeing to the modification of the support obligations was filed and made part of the record in the Mississippi court. (App. F).

REASONS FOR GRANTING THE WRIT

I.

THE DECISION OF THE SUPREME COURT OF MISSISSIPPI CONFLICTS WITH THE FULL FAITH AND CREDIT CLAUSE OF THE UNITED STATES CONSTITUTION AND WITH THE PROVISIONS OF 28 U.S.C. § 1738B

In the case at hand, the Supreme Court of Mississippi found that the North Carolina Order did not, and could not, modify the Mississippi Divorce Decree. In relying on a 1993 state court case, the court stated that "As URESA is a remedy in the courts of sister states for the enforcement of support orders, the original order of support is not affected by the orders from another state under URESA." *Department of Human Services ex rel. Adams v. Rains*, 626 So. 2d 136, 139 (Miss. 1993). (App. A). The court therefore concluded that "**under URESA, the North Carolina court could not modify the child support order entered by the chancery court.**" (App. A).

However, the Court was relying on an interpretation of URESA prior to the enactment of the Full Faith and Credit for Child Support Orders Act (FFCCSOA), 28 U.S.C. § 1738B, which was enacted in 1994. Indeed, contrary to Mississippi's statues under URESA, Miss. Code Ann. § 93-11-1 *et seq.*, the FFCCSOA provides that state's have

the express *authority to modify* the child support orders of other states:

> (e) **Authority to Modify Orders.** A court of a State may modify a child support order issued by a court of another State if —
>
> > (1) the court has jurisdiction to make such a child support order pursuant to subsection (i); and
> >
> > (2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that state no longer is the child's State or the residence of any individual contestant; or
> >
> > (B) each individual contestant has filed written consent with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume continuing, exclusive jurisdiction over the order.

Thus, in this regard URESA is completely contradictory to FFCCSOA. As result, the Supremacy Clause of the United States Constitution controls and preempts the application of URESA. *See Pacific Gas & Elec. Co. v. State Energy Resources Conserv. & Dev. Comm'n*, 461 U.S. 190, 203, 103 S. Ct. 1713, 1722, 75 L. Ed. 2d 752 (1983). Although Mississippi has no recorded legislative history, this was apparently recognized and in July 1997, URESA was repealed and replaced with the Uniform Interstate Family

Support Act (UIFSA), Miss. Code Ann. § 93-25-1, *et seq.*, which tracks very closely the FFCCSOA. Nevertheless, the Mississippi Supreme Court continued to apply URESA to this case, as the court orders were modified (or at least attempted to be) prior to the effect date of UIFSA.

The court then proceeded to also apply provisions of the UIFSA, an act not even in existence when the orders were modified, to deny relief to the Petitioner. In so doing, the court noted that under the UIFSA, in order for the support orders to be effective, Pamela Thrift must have filed a written consent for North Carolina's assumption of jurisdiction in the Mississippi court. (App. A). The court found no such filing. In applying a statutory provision that had not even been in effect at the time of the modification of the support obligations, and denying relief based on these grounds, the Supreme Court of Mississippi clearly violated the Petitioner's due process rights guaranteed under the Fourteenth Amendment to the United States Constitution. *See United States v. Sperry Corp.*, 493 U.S. 52, 64, 110 S. Ct. 387, 396, 107 L. Ed. 2d 290 (1989); *Pension Benefit Guar. Corp. v. R.A. Gray & Co.*, 467 U.S. 717, 730, 104 S. Ct. 2709, 2718, 81 L. Ed. 2d 601 (1984).

Furthermore, such a written consent was in fact filed in the Mississippi court and was even made an exhibit to the appeal. (App. F). This document clearly demonstrates Pamela Thrift's consent to the jurisdiction of the North Carolina court and assent to the modification of child support. As this document was clearly filed and made part of the court record in Mississippi, all of the requirements of the federal act (FFCCSOA) have been complied with and the North Carolina modification should have been recognized.

Nevertheless, the State of Mississippi has and is continuing to apply an act (URESA) which is in *direct conflict* with federal law, and has even applied a new statute (UIFSA) retroactively, which conflicts with this federal law. This Court has not yet determined the preemptive effect of FFCCSOA, and this alone provides grounds for this Court to grant the requested writ.

Furthermore, the Mississippi Supreme Court brushed aside virtually all analysis of FFCCSOA in a footnote. It held that based on the FFCCSOA, "the North Carolina court did not have the *jurisdiction* to modify the [Mississippi] chancery court's order." (App. A) (emphasis added). This is simply incorrect.

The North Carolina court did, indeed, have proper jurisdiction over the parties. This was undisputed in the record before the court. Pamela initiated the action in North Carolina when she filed her Uniform Support Petition. In filing her Petition, she submitted herself to the jurisdiction of the court in North Carolina. The style of the case in the General Court of Justice, District Court Division of Wake County, North Carolina, was "Pamela Thrift, Plaintiff v. Patrick Thrift, Defendant". (App. B). It is a basic principal of jurisdiction that by filing her Petition, she voluntarily submitted herself to the jurisdiction of the court in North Carolina. The court in North Carolina had jurisdiction over Patrick as well. He filed pleadings and personally appeared on a number of occasions.

The first order entered in North Carolina on June 18, 1992 allowed registration of the Mississippi Order for child support. (App. B). Pamela was the party who initiated the request for registration when she filed her Petition. It is clear

that the Judge found that he had jurisdiction over the parties and the subject matter when he found good cause to decrease child support. (App. B). Patrick had every reason to rely on the order since he had been brought into court by Pamela. Pamela raised no objection to the court's order, nor did she challenge the court's authority or jurisdiction over her.

The court in North Carolina later modified the child support arrangement on September 24, 1993. This hearing and the order following are significant in that Pamela voluntarily submitted a statement evidencing her agreement to the modification. (App. F). It is further significant because the order reflects that she was represented by counsel at the hearing. (App. E). Again, Pamela voluntarily submitted herself to the jurisdiction of the court in North Carolina and in this case expressly submitted herself for the purpose of a modification of child support. The court further found that Patrick was a student at North Carolina State University. (App. E). Based on Pamela's statement, the Judge found good cause to decrease child support and ordered Patrick to pay $140 per month — $40 to be paid toward the arrearage and $100 per month current child support. (App. E). No other orders were entered in North Carolina or Mississippi.

The proper question for the court to respond was not whether the North Carolina court had *jurisdiction*, which it clearly did, but whether it had the *authority* under FFCCSOA to modify the Mississippi decree. As to this question, the Supreme Court of Mississippi failed to even address the federal statute. The court only cited to the portion of the federal statute dealing with "recognition of child support orders." In referring to subparagraph (3) it implicitly acknowledged that both Mississippi and North Carolina have "continuing, exclusive jurisdiction" as that term is defined

in the Act. It did not, as indicated above, even reach the question of authority to modify. Furthermore, the evidence in the record before the court clearly indicates that the provisions of FFCCSOA were complied with and a valid modification of the child support order was accomplished by the North Carolina court. By the Constitution and by the federal statutes, Mississippi is required to give the modification the full faith and credit it would enjoy in North Carolina. *See Sherrer v. Sherrer*, 334 U.S. 343, 351, 68 S. Ct. 1087, 92 L. Ed. 1429 (1948) (under full faith and credit clause, such judgments must be given the same effect the judgment would have in its rendering state).

CONCLUSION

For the reasons set forth above, the petition for writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

APPENDIX A — OPINION OF THE SUPREME COURT OF MISSISSIPPI DATED MAY 18, 2000

IN THE SUPREME COURT OF MISSISSIPPI

NO. 1998-CA-01914-SCT

PATRICK ANTHONY THRIFT

v.

PAMELA KELLY THRIFT AND MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

DATE OF JUDGMENT:	07/23/1998
TRIAL JUDGE:	HON. C. MICHAEL MALSKI
COURT FROM WHICH APPEALED:	LAFAYETTE COUNTY CHANCERY COURT

* * *

NATURE OF THE CASE:	CIVIL — DOMESTIC RELATIONS
DISPOSITION	AFFIRMED — 05/18/2000

* * *

BEFORE BANKS, P.J., WALLER AND DIAZ, JJ.

WALLER, JUSTICE, FOR THE COURT:

¶1. This appeal from the Chancery Court of Lafayette County, Mississippi, involves how Mississippi child support

decrees are treated in foreign jurisdictions and the interpretation of the Mississippi Uniform Reciprocal Enforcement of Support Statutes ("URESA") and the Uniform Interstate Family Support Act ("UIFSA"), Miss. Code Ann. §§ 93-25-1 to 93- 25-117 (Supp. 1999).

STATEMENT OF THE CASE AND FACTS

¶2. On or about January 23, 1989, Pamela Kelly Thrift and Patrick Anthony Thrift were divorced pursuant to a decree entered by the Chancery Court of Lafayette County, Mississippi ["the chancery court"]. The decree awarded custody of the Thrifts' minor child to Pamela. Pamela had been awarded temporary child support during their separation, and Patrick was in arrears on this obligation. The divorce decree ordered Patrick to pay the arrearage, attorney's fees, and $200 per month in child support.

¶3. Patrick subsequently moved to Wake County, North Carolina. In 1992 Pamela filed an action in the chancery court under URESA, and a "Certificate and Order" was filed with the North Carolina Division of Social Services, Child Support Enforcement Central Registry, ordering Patrick to send all child support payments to the Lafayette County Department of Human Services.

¶4. In 1992 and 1993, four separate orders were entered by the General Court of Justice, District Court Division of Wake County, North Carolina ["the North Carolina court"], establishing Patrick's arrearage and modifying (usually reducing) the amount of the monthly child support payment. In 1995 and 1997 the Mississippi Department of Human

Services sent statements to Patrick which indicated that he owed $100 per month in child support. In September of 1997, the MDHS notified Patrick that he owed $200 in child support per month and $50 per month as payment toward the arrearage, and that the arrearage had been increased because he had been undercharged by $100 per month. Statements for October and November, 1997, reflect a payment due of $250.

¶5. Carolyn Dorris, the Child Support Supervisor for Calhoun and Yalobusha Counties,[1] testified at the hearing that, in December of 1997 or January of 1998, the MDHS recalculated the arrearage and added another amount (approximately $6,000) to the arrearage because the Mississippi Legislature had adopted the UIFSA.

¶6. On March 12, 1998, Patrick filed a motion for modification in the Lafayette County Chancery Court, citing the North Carolina court orders and stating that, according to the Wake County North Carolina Child Support Enforcement, as of May, 1997, Patrick's arrearage was $3,760.

¶7. Pamela filed a response to the motion for modification, admitting that the North Carolina court entered the various orders, but averring that: (1) the North Carolina court erred in its calculation of Patrick's arrearage; (2) the chancery court had jurisdiction over the parties and the subject matter; (3) the divorce decree had not been modified; and (4) as of January 8, 1998, Patrick was in arrears in the amount of $10,495.36.

---

1. Pamela moved to Water Valley, Yalobusha County, Mississippi, in the mid-1990s.

¶8. The chancery court found that: (1) the orders entered by the North Carolina court "were effective only within North Carolina and did not alter the original Mississippi Decree"; (2) the divorce decree had not been modified; (3) the child support obligation had accrued at the rate of $200 per month; and (4) after giving Patrick credit for payments made, as of June 30, 1998, he was in arrears in the amount of $10,280.[2]

¶9. Patrick appeals from the chancery court's judgment, raising the following as assignments of error:

I. WHETHER THE ORDERS ENTERED BY THE COURTS IN NORTH CAROLINA MODIFIED THE CHILD SUPPORT PAYMENTS DUE BY THE APPELLANT THEREBY REDUCING THE ARREARAGE TO $4,733.88 AS OF NOVEMBER 1, 1997.

II. WHETHER THE DEPARTMENT OF HUMAN SERVICES MAY RETROACTIVELY APPLY A CHANGE IN STATUTORY LAW AND INCREASE APPELLANT'S ARREARAGE IN THE AMOUNT OF APPROXIMATELY $6,000.00.

STANDARD OF REVIEW

¶10. "Our scope of review in domestic relations matters is limited by our familiar substantial evidence/manifest error

2. In July of 1998, the MDHS (Dorris) calculated the arrearage as being $10,280.36.

rule." ***Magee v. Magee***, 661 So. 2d 1117, 1122 (Miss. 1995). An appellate court may reverse a chancellor's finding of fact only when there is no "substantial, credible evidence" justifying his finding. ***Williams v. Rembert***, 654 So. 2d 26, 28 (Miss. 1995) (quoting ***Snow Lake Shores Property Owners Corp. v. Smith***, 610 So. 2d 357, 360 (Miss. 1992)). "Our scope of review in domestic relations matters is limited under the familiar rule that this Court will not disturb a chancellor's findings unless manifestly wrong, clearly erroneous, or if the chancellor applied an erroneous legal standard." ***Johnson v. Johnson***, 650 So. 2d 1281, 1285 (Miss. 1994) (citing ***McEwen v. McEwen***, 631 So. 2d 821, 823 (Miss. 1994)).

DISCUSSION

I. WHETHER THE ORDERS ENTERED BY THE COURTS IN NORTH CAROLINA MODIFIED THE CHILD SUPPORT PAYMENTS DUE BY THE APPELLANT THEREBY REDUCING THE ARREARAGE TO $4,733.88 AS OF NOVEMBER 1, 1997.

¶11. In 1997, the Mississippi Legislature adopted the UIFSA and repealed URESA. This Court has held:

> This Court has stated that proceedings under URESA do not supercede the original order of support. ***Hailey v. Holden***, 457 So. 2d 947, 952 (Miss. 1984) (citing ***Howard v. Howard***, 191 So. 2d 528 (Miss. 1966)). "As a general rule, an order still subject to modification in the state that

> rendered it may be modified by another state. [Citations omitted.] . . . Arrearages in child support payments, however, are not subject to modification." ***Hailey***, 457 So. 2d at 951.
>
> **As URESA is a remedy in the courts of sister states for the enforcement of support orders, the original order of support is not affected by the orders from another state under URESA.** *Id.* at 952.

Department of Human Servs. ex rel. Adams v. Rains, 626 So. 2d 136, 139 (Miss. 1993) (emphasis added). Therefore, under URESA, the North Carolina court could not modify the child support order entered by the chancery court.

¶12. Patrick contends that Pamela submitted to the jurisdiction of the North Carolina court when she signed before a notary public and evidently forwarded to the North Carolina court a statement indicating that she accepted a decrease in Patrick's child support obligation. However, as Pamela points out in her brief, § 93-11-57, part of the Mississippi codification of URESA, provided that "[p]articipation in any [URESA] proceedings . . . shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding." In other words, merely filing a URESA action in another state and participating in the URESA proceedings in the other state does not subject the Mississippi resident to the other state's jurisdiction.

¶13. Under the UIFSA, the issuing state of the child support order is the only state that can modify the order, so long as it

retains "continuing, exclusive jurisdiction." Section 93-25-17 provides that a Mississippi court issuing a child support order has "continuing, exclusive jurisdiction":

> (a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
>
> (b) Until all of the parties who are individuals have filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

Because both Pamela and the minor child still reside in the State of Mississippi, and because Pamela never filed a written consent for North Carolina's assumption of jurisdiction with any court of this State, under the UIFSA, the orders entered by the North Carolina court are not enforceable.

¶14. Under both URESA and the UIFSA,[3] the North Carolina court did not have the power to modify the chancery court's order and Patrick's first assignment of error is without merit.

---

3. Under the federal statutory scheme for enforcement of child support orders, the Full Faith and Credit for Child Support Order Act ("FFCCSOA"), the North Carolina court did not have the jurisdiction to modify the chancery court's order. Section 28 U.S.C. § 1738B (Supp. 1999) provides guidelines for determining, when dealing with multiple child support orders, which order will be recognized for purposes of continuing, exclusive jurisdiction:

(Cont'd)

II. WHETHER THE DEPARTMENT OF HUMAN SERVICES MAY RETROACTIVELY APPLY A CHANGE IN STATUTORY LAW AND INCREASE APPELLANT'S ARREARAGE IN THE AMOUNT OF APPROXIMATELY $6,000.00.

¶15. Patrick complains that, after Mississippi adopted the UIFSA, the MDHS erroneously applied the UIFSA retroactively by increasing the arrearage by approximately $6,000.00, but he does not cite a provision of the UIFSA that empowers a state agency to modify the amount of a child support arrearage. A review of URESA, the UIFSA and applicable case law convinces the Court that neither URESA nor the UIFSA affects substantive rights, but merely provides a **procedure** whereby child support orders may be enforced in foreign states. *See, e.g.,* ***Child Support Enforcement Div. of Alaska v. Brenckle***, 675 N.E.2d 390, 393 (Mass. 1997) ("It is also clear that UIFSA, like its predecessor URESA,

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(Cont'd)

> (3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

28 U.S.C. § 1738B(f). Because the minor child in the instant case resides in the State of Mississippi, the Mississippi chancery court's order would be recognized instead of the North Carolina court's orders. *See, e.g.,* ***Twaddell v. Anderson***, 523 S.E.2d 710 (N.C. 1999).

does not create a duty of support, but rather provides the procedural framework for enforcing one State's support order in another jurisdiction."); ***State Dep. of Human Servs. v. Jacoby***, 975 P.2d 939, 942 (Utah Ct. App. 1999) ("UIFSA merely provides a framework for enforcing one state's support order in another jurisdiction."). As the Massachusetts court held, URESA and the UIFSA do not, nor are they empowered to, create the duty to provide child support. ***Brenckle***, 675 N.E.2d at 393.

¶16. This Court, in ***Hailey v. Holden***, 457 So. 2d 947 (Miss. 1984), reiterated basic principles which apply to the enforcement of child support judgments and to the accrual of child support obligations:

> A child support judgment is awarded to the custodial parent for the benefit and protection of the child. ***Miller v. Miller***, 29 Or. App. 723, 565 P.2d 382, 100 A.L.R.3d 1120 (1977). There is a public policy consideration involved because of the interest of society to provide for its children's needs and to decrease society's financial burden when a child is supported through public assistance. The underlying principle here is the legal duty owed to the child for the child's maintenance and best interest. ***McManus v. McManus***, 428 So. 2d 854 (La. Ct. App. 1983).
>
> We, therefore, conclude that since both the child's interest and society's interest are involved both interests are to be considered in resolution of any dispute involving child support. The child's

> maintenance and best interest are to be satisfied; on the other hand, the parties cannot undermine the state's interest. Of equal importance in this situation is the inherent power of the court to enforce its own orders and decrees.
>
> In Mississippi judicial interpretation of this legal duty to support minor children has firmly established that, once ordered, installment[s] of child support become fixed and vested when due and unpaid. ***Cunliffe v. Swartzfager***, 437 So. 2d 43 (Miss. 1983); ***Duncan v. Duncan***, 417 So. 2d 908 (Miss. 1982); ***Hambrick v. Prestwood***, 382 So. 2d 474 (Miss. 1980); ***Howard v. Howard***, 191 So. 2d 528 (Miss. 1966).
>
> Additionally, a court cannot relieve the civil liability for support payments that have already accrued. ***Cunliffe***, *supra*; ***Duncan***, *supra*; ***Howard***, *supra*.

Hailey, 457 So. 2d at 950-51.

¶17. Therefore, under Mississippi law, none of the interested entities or parties — a Mississippi court, a North Carolina court, Patrick, Pamela, or the Mississippi Department of Human Services — can alter the amount of arrearage that had accrued since the entry of the chancery court's judgment which ordered Patrick to pay $200 per month in child support. The fact that the MDHS mistakenly relied upon the North Carolina court's orders, miscalculated the amounts currently due by Patrick, and miscalculated the amount of the arrearage do not relieve Patrick of his liability for the accrued arrearage.

¶18. Because the UIFSA does not affect in any way the accrual of Patrick's arrearage, his assignment of error pertaining to the retroactive application of the UIFSA is without merit.

CONCLUSION

¶19. The judgment of the Chancery Court of Lafayette County, Mississippi, is, therefore, affirmed.

¶20. **AFFIRMED.**

PRATHER, C.J., PITTMAN AND BANKS, P.JJ., McRAE, SMITH, MILLS, COBB AND DIAZ, JJ., CONCUR.

APPENDIX B — ORDER OF THE GENERAL COURT OF JUSTICE FOR THE DISTRICT COURT DIVISION, STATE OF NORTH CAROLINA, COUNTY OF WAKE DATED APRIL 18, 1992

NORTH CAROLINA
COUNTY OF WAKE
DISTRICT COURT DIVISION

FILE NO. 90CVD12165
IV-D # 4827799
URESA # 60-124-31-3562B

Pamela Thrift

Plaintiff

vs

Patrick Thrift

Defendant

THIS CAUSE COMING ON TO BE HEARD and being heard by the undersigned Judge of the General Court of Justice, District Court Division, sitting in session in Wake County, Raleigh, North Carolina, and after hearing evidence the Court makes the following findings of fact and conclusions of law:

1. That this matter comes before the Court this 27th day of March, 1992 by way of Defendant's petitions to vacate the registration, to erase the arrearage and to reduce the amount of support.

2. That on October 25, 1991, the Court ordered a paternity blood test upon the request of the Defendant and the blood test has been completed with results of 99.45% probability of paternity.

3. That the Defendant no longer denies paternity for the minor child, April Thrift, born September 1, 1985 and hereby is declared to be the father of said child.

4. That the registration of the Mississippi order for child support is allowed.

5. That the arrearages on the order are established as $7,240.00 as of March 31, 1992 after crediting receipts of $620.00 that Defendant paid directly to Plaintiff from January 31, 1989 through November 1, 1989.

6. That a substantial change of circumstances has occurred warranting modification of the child support obligation, to wit the Defendant's income has substantially decreased and he is enrolled in school full-time at North Carolina State University.

7. That the Defendant is currently unemployed but $736.10 (full-time earning minimum wage) has been imputed for him as required by the North Carolina guidelines.

8. That there is good cause to be shown to decrease the Defendant's child support obligation.

Based on the forgoing findings of fact and conclusions of law, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

Appendix B

1. That the Defendant is the natural and biological father of the minor child, April Thrift.

2. That registration of the Mississippi order for child support is allowed and the arrears are established as $7,240.00 as of March 31, 1992.

3. That the motion to decrease is hereby allowed.

4. That the Defendant pay into the Clerk of Superior Court the sum of $150.00 per month; $21.00 of each of said payments is to be credited toward Defendant's arrears. When said arrears are paid in full, Defendant's payments are to revert to $129.00 per month.

5. That the Court specifically finds as fact and incorporates herein by reference the matters contained in the attached Child Support Award Worksheet.

6. That the effective date of this order is April 15, 1992.

7. That this matter should be reviewed on October 2, 1992 to determine if Defendant is still enrolled and attending college or if he is employed and able to increase child support payments for his minor child.

8. That the Defendant shall keep the Wake County Child Support Enforcement Agency informed of his current residence and mailing address and of the name and address of any payor of his disposable income and of the amount and effective date of any substantial change in his disposable income.

Appendix B

9. That the Defendant shall cooperate fully with the Wake County Child Support Enforcement Agency in the verification of the amount of his disposable income.

10. That the Defendant is immediately subject to wage withholding without further notice pursuant to N.C.G.S. Section 110-136.3, et seq. This remedy is in addition to, and not in lieu of, other remedies allowed by law.

11. That the Defendant is personally responsible for making any and all payments until the employer can effectuate the wage withholding, and any payments not paid through wage withholding.

12. That this order does not prohibit the Wake County Child Support Enforcement Agency to proceed to collect arrears or past public assistance paid owed to the State pursuant to N.C.G.S. 105A by setoff against Defendant's Federal or State tax returns.

13. That the custodian or custodial parent keep the non-custodial parent informed of the current residence and mailing address of the minor child, unless the Court finds that violence or threats of violence have occurred which constitute domestic violence as defined in Chapter 50B of the North Carolina General Statutes.

This the 18 day of April, 1992.

s/ [illegible]
Judge Presiding

APPENDIX C — ORDER OF THE GENERAL COURT OF JUSTICE FOR THE DISTRICT COURT DIVISION, STATE OF NORTH CAROLINA, COUNTY OF WAKE DATED AND FILED DECEMBER 3, 1992

NORTH CAROLINA
COUNTY OF WAKE
DISTRICT COURT DIVISION

FILE NO. 90CVD12165
IV-D # 4827799
URESA # 60-124-31-3562B

Pamela Thrift

Plaintiff

vs

Patrick Thrift

Defendant

THIS CAUSE COMING ON TO BE HEARD and being heard by the undersigned Judge of the General Court of Justice, District Court Division, sitting in session in Wake County, Raleigh, North Carolina, and after hearing evidence the Court makes the following findings of fact and conclusions of law:

1. That this matter comes before the Court this 30th day of October, 1992, by way of a court ordered review to determine if Defendant is employed and/or attending college.

Appendix C

2. That Defendant was present in court and represented by his attorney, George Anderson.

3. That the Defendant is still attending North Carolina State University and is employed at two part-time jobs and his total gross income is $850.00 per month.

4. That a worksheet was completed to determine if child support can be increased.

5. That there is good cause shown to increase Defendant's ongoing obligation to $148.00 per month and to increase his payment on arrearages to $52.00 per month.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the Defendant pay into the Clerk of Court the sum of $200.00 per month. Fifty two dollars of each of said payment is to be credited toward Defendant's arrears. When said arrears are paid in full, payments are to revert to $148.00 per month.

2. That the effective date of the increase is November 15, 1992.

3. That the arrears are established as $7,093.00 as of October 31, 1992.

4. That immediate wage withholding is authorized.

Appendix C

5. That all other terms of the court order dated June 18, 1992 are in full force and effect.

s/ Donald W. Overby
The Honorable Donald W. Overby
Judge Presiding

APPENDIX D — ORDER OF THE GENERAL COURT OF JUSTICE FOR THE DISTRICT COURT DIVISION, STATE OF NORTH CAROLINA, COUNTY OF WAKE DATED AUGUST 13, 1993 AND FILED SEPTEMBER 3, 1993

NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

IV-D # 4827799
Docket # 90CVD12165

Pamela Thrift

Plaintiff

vs

Patrick Thrift

Defendant

ORDER

THIS MATTER comes before the Court by way of a motion for show cause. A hearing was held on 8/13/93, at which time the Defendant was present and testified.

Based upon the record in the cause and the evidence presented, the Court makes the following findings of fact:

Appendix D

FINDINGS OF FACT

1. That the Defendant has not complied with the order of this Court dated 3/27/92, ordering him to make child support payments.

2. That the Defendant is in arrears under said order in the amount of $300.00 as of 8/13/93 (plus established arrears of $7093.00).

3. That the Defendant is and throughout the period from the entry of the original order has been an able-bodied man capable of gainful employment.

4. That the Defendant

✓ is currently employed by [illegible] Convalescent Center earning $6.50 per hour.

* * *

5. That the Defendant's child April is a minor.

6. That the purpose of the above-mentioned order, to provide funds for the support of Defendant's minor child, is still to be served by compliance.

7. That the Defendant believes a downward modification is warranted and will file a motion.

Appendix D

Based on the forgoing findings of fact, the Court concludes as a matter of law:

CONCLUSIONS OF LAW

That the Defendant is not in civil contempt of this Court's order dated 3/27/92.

Based upon the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the Defendant is not in contempt but is required to abide by the following conditions:

* * *

✓ pay into the Clerk of Superior Court the sum of $200.00 per month. $52.00 of each of said payments is to be credited toward Defendant's arrears. When said arrears are paid in full, Defendant's payments are to revert to $148.00 per month.

* * *

2. That the parent who is ordered or agrees to maintain medical/dental insurance for the child shall provide written notice of any change in the insurance coverage, including termination of the coverage, to the other party. Any change in the employment of the insuring parent which affects insurance coverage therefore requires written notice to the other parent. A parent who fails to provide medical/dental

insurance as ordered or agreed to will be personally liable after the date the coverage was ordered or agreed to for all medical/dental expenses which would have been covered by insurance if the insurance had been in effect.

3. That the Defendant shall keep the Wake County Child Support Enforcement Agency informed of his current residence and mailing address and of the name and address of any payor of his disposable income and of the amount and effective date of any substantial change in his disposable income.

4. That the Defendant shall cooperate fully with the Wake County Child Support Enforcement Agency in the verification of the amount of his disposable income.

5. That the Defendant is immediately subject to wage withholding without further notice pursuant to N.C.G.S. Section 110-136.3, et seq. This remedy is in addition to, and not in lieu of, other remedies allowed by law.

6. That the Defendant is personally responsible for making any and all payments until the employer can effectuate the wage withholding, and any payments not paid through wage withholding.

7. That this order does not prohibit the Wake County Child Support Enforcement Agency to proceed to collect arrears or past public assistance paid owed to the State pursuant to N.C.G.S. 105A by setoff against Defendant's Federal or State tax returns.

Appendix D

8. That the custodian or custodial parent keep the non-custodial parent informed of the current residence and mailing address of the minor child, unless the Court finds that violence or threats of violence have occurred which constitute domestic violence as defined in Chapter 50B of the North Carolina General Statutes.

9. That the effective date of this order is August 13, 1993.

This the 13 day of August, 1993.

s/ [illegible]
Judge Presiding

APPENDIX E — ORDER OF THE GENERAL COURT OF JUSTICE FOR THE DISTRICT COURT DIVISION, STATE OF NORTH CAROLINA, COUNTY OF WAKE DATED SEPTEMBER 23, 1993

NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

Docket # 90CVD12165
IV-D # 4827799

Pamela K. Thrift

Plaintiff

vs

Patrick Thrift

Defendant

ORDER

THIS MATTER comes before the Court by way of a motion of the Defendant to reduce child support. A hearing was held on September 10, 1993, at which time the Defendant was present and testified. Plaintiff was represented by Assistant District Attorney, Jim Johnson.

Based upon the record in the cause and the testimony and evidence presented, the Court makes the following findings of fact and conclusions of law:

Appendix E

1. That the Defendant is employed by North Carolina State University earning a gross income of $359.00 every two weeks.

2. That the expenses of Defendant are reasonable.

3. That a substantial change of circumstances has occurred warranting modification of the child support obligation, to wit: a notarized statement from the custodial parent agreeing to lower the amount of ongoing child support.

4. That there is good cause shown to modify the Defendant's child support obligation.

5. The Defendant is a student at NCSU in a late entry status.

Based upon the foregoing findings of fact and conclusions of law IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the motion to modify support is hereby granted.

2. That the Defendant pay into the Clerk of Superior Court the sum of $140.00 per month. Forty dollars of each of said payments is to be credited toward Defendant's arrears. When said arrears are paid in full, Defendant's payments are to revert to $100.00 per month.

3. That the Court specifically finds as fact and incorporates herein by reference the matters contained in the attached Child Support Award Worksheet.

Appendix E

4. That the effective date of this order is September 15, 1993.

5. The Defendant is to provide the Child Support Enforcement Agency verification each semester of continued student status. Defendant to enroll into full-time student status after completing 20 semester hours as late entry student.

6. That the parent who is ordered or agrees to maintain medical/dental insurance for the child shall provide written notice of any change in the insurance coverage, including termination of the coverage, to the other party. Any change in the employment of the insuring parent which affects insurance coverage therefore requires written notice to the other parent. A parent who fails to provide medical/dental insurance as ordered or agreed to will be personally liable after the date the coverage was ordered or agreed to for all medical/dental expenses which would have been covered by insurance if the insurance had been in effect.

7. That the Defendant shall keep the Wake County Child Support Enforcement Agency informed of his current residence and mailing address and of the name and address of any payor of his disposable income and of the amount and effective date of any substantial change in his disposable income.

8. That the Defendant shall cooperate fully with the Wake County Child Support Enforcement Agency in the verification of the amount of his disposable income.

9. That the Defendant is immediately subject to wage withholding without further notice pursuant to N.C.G.S. Section 110-136.3, et seq. This remedy is in addition to, and not in lieu of, other remedies allowed by law.

10. That the Defendant is personally responsible for making any and all payments until the employer can effectuate the wage withholding, and any payments not paid through wage withholding.

11. That this order does not prohibit the Wake County Child Support Enforcement Agency to proceed to collect arrears or past public assistance paid owed to the State pursuant to N.C.G.S. 105A by setoff against Defendant's Federal or State tax returns.

12. That the custodian or custodial parent keep the non-custodial parent informed of the current residence and mailing address of the minor child, unless the Court finds that violence or threats of violence have occurred which constitute domestic violence as defined in Chapter 50B of the North Carolina General Statutes.

This the 23rd day of September, 1993.

s/ William A. Creech
The Honorable William A. Creech
Judge Presiding

APPENDIX F — NOTARIZED STATEMENT OF PAMELA K. THRIFT DATED JULY 30, 1993

Patrick A. Thrift called me July 29, 1993, to inform me that he had a court date set regarding his child support and that this court date would interfere with his bringing our daughter, April, home as we had agreed if they put him in jail.

He requested that I prepare a letter stating that I would accept $100 a month child support and have it notarized so that he could present it in court.

I will agree to accept $100 a month child support under the following conditions:

a. That during the period the child support is reduced to $100 a month, he must be a full-time student in college.

b. That North Carolina Child Support Section remain in control of the payments of child support so that an accurate record will be kept and action taken if he fails to comply.

c. That upon graduation or failure to remain a full-time student that this agreement shall become null and void and the original court ruling shall be in effect.

SIGNED: s/ Pamela K. Thrift DATED: 7/30/93

WITNESSED: s/ [illegible] DATED: 7/30/93
My Commission Expires: 10/24/93